

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

RANDI HANDWERK, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

Case No. 0:21-cv-00351-MJD-TNL

DAN FLATEN, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

Case No. 0:21-cv-00404-MJD-TNL

LEON PFAFF, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

Case No. 0:21-cv-00462-MJD-TNL

B. CARLSON, on behalf of
himself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

Case No. 0:21-cv-00475-MJD-TNL

RYAN BROS., INC., on behalf of themselves
and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al,

Defendants.

Case No. 0:21-cv-00433-MJD-TNL

EAGLE LAKE FARMS PARTNERSHIP, on
behalf of itself individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al.,

Defendants.

Case No. 0:21-cv-00543-MJD-TNL

BRAD DEKREY, on behalf of himself
individually and all others
similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al.,

Defendants.

Case No. 0:21-cv-00639-MJD-TNL

<p>TYLER SCHULTZ, on behalf of himself individually and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>BAYER CROPSCIENCE LP, et al.,</p> <p style="text-align: center;">Defendants.</p>	Case No. 0:21-cv-00681-MJD-TNL
<p>HAPKA FARMS, INC. and AMY HAPKA, on behalf of themselves individually and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>BAYER CROPSCIENCE LP et al.,</p> <p style="text-align: center;">Defendants.</p>	Case No. 0:21-cv-00685-MJD-TNL
<p>BEEMAN BERRY FARM, LLC, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>BAYER CROPSCIENCE LP, et al.,</p> <p style="text-align: center;">Defendants.</p>	Case No. 0:21-cv-00719-MJD-TNL

WUNSCH FARMS, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al.,

Defendants.

Case No. 0:21-cv-00970-MJD-TNL

KENNETH BECK, on behalf of himself
individually and all others similarly situated,

Plaintiff,

v.

BAYER CROPSCIENCE LP, et al.,

Defendants.

Case No. 0:21-cv-00996-PJS-KMM

JOINT MOTION TO SET RESPONSE DEADLINES AND BRIEFING SCHEDULE¹

Plaintiffs Randi Handwerk, Dan Flaten, Ryan Brothers, Inc., Michael J. Ryan, Leon Pfaff, B. Carlson, Eagle Lake Farms Partnership, Brady DeKrey, Tyler Schultz, Hapka Farms, Inc., Amy Hapka, and Beeman Berry Farm, LLC (together, “Plaintiffs”) and Defendants GROWMARK, Inc. and GROWMARK FS, LLC, after consultation with all other Defendants in these actions,² who report that they support the relief sought, jointly request that the Court extend any current deadlines to answer or otherwise respond as set forth below.

1. On February 5, 2021, Randi Handwerk filed a complaint in the District of Minnesota, *Handwerk v. Bayer CropScience, et al.*, 0:21-cv-00351-MJD-TNL (“*Handwerk*”). The *Handwerk* case was assigned to Judge Michael J. Davis and Magistrate Judge Tony N. Leung.

¹ This Joint Motion to Extend Response Deadlines is being filed contemporaneously in *Handwerk v. Bayer CropScience LP, et al.*, 0:21-cv-00351-MJD-TNL (D. Minn.); *Flaten v. Bayer CropScience LP, et al.*, 0:21-cv-00404-MJD-TNL (D. Minn.); *Ryan Bros., Inc., v. Bayer CropScience LP, et al.*, 0:21-cv-00433-MJD-TNL (D. Minn.); *Pfaff v. Bayer CropScience, et al.*, 0:21-cv-00462-MJD-TNL (D. Minn.); *Carlson v. Bayer CropScience LP, et al.*, 0:21-cv-00475-MJD-TNL (D. Minn.); *Eagle Lake Farms Partnership v. Bayer CropScience LP, et al.*, 0:21-cv-00543-MJD-TNL (D. Minn.); *Dekrey v. Bayer CropScience LP, et al.*, 0:21-cv-00639-MJD-TNL (D. Minn.); *Schultz v. Bayer CropScience LP, et al.*, 0:21-cv-00681-MJD-TNL (D. Minn.); *Hapka Farms, Inc. and Amy Hapka v. Bayer CropScience LP et al.*, 0:21-cv-00685-MJD-TNL (D. Minn.); *Beeman Berry Farm, LLC v. Bayer CropScience LP et al.*, 0:21-cv-00719-MJD-TNL (D. Minn.); *Wunsch Farms, v. Bayer CropScience LP, et al.*, 0:21-cv-00970-MJD-TNL (D. Minn.); and *Kenneth Beck, v. Bayer CropScience, LP, et al.*, 0:21-cv-00996-PJS-KMM (D. Minn.).

² The other Defendants are: Bayer CropScience LP; Bayer CropScience, Inc.; Corteva Inc.; Cargill Incorporated; BASF Corporation; Syngenta Corporation; WinField Solutions, LLC; Univar Solutions, Inc.; Federated Co-operatives Ltd.; CHS Inc.; Nutrien Ag Solutions, Inc.; Simplot AB Retail Sub, Inc.; and Tenkoz, Inc.

2. Subsequently, a number of additional related cases have been filed in this District: *Flaten v. Bayer Cropscience, et al.*, 0:21-cv-00404-MJD-TNL (D. Minn.); *Ryan Bros., Inc., v. Bayer Cropscience, et al.*, 0:21-cv-00433-MJD-TNL (D. Minn.); *Pfaff v. Bayer Cropscience, et al.*, 0:21-cv-00462-MJD-TNL (D. Minn.); *Carlson v. Bayer Cropscience, et al.*, 0:21-cv-00475-MJD-TNL (D. Minn.); *Eagle Lake Farms Partnership v. Bayer Cropscience, et al.*, 0:21-cv-00543-MJD-TNL (D. Minn.); *Dekrey v. Bayer CropScience, et al.*, 0:21-cv-00639-MJD-TNL (D. Minn.); *Schultz v. Bayer Cropscience, et al.*, 0:21-cv-00681-MJD-TNL (D. Minn.); *Hapka Farms, Inc. and Amy Hapka v. Bayer Cropscience et al.*, 0:21-cv-00685-MJD-TNL (D. Minn.); *Beeman Berry Farm, LLC v. Bayer Cropscience et al.*, 0:21-cv-00719-MJD-TNL; *Wunsch Farms, v. Bayer CropScience LP, et al.*, 0: 21-cv-00970-MJD-TNL (D. Minn.); and *Kenneth Beck, v. Bayer CropScience, LP, et al.*, 0:21-cv-00996-PJS-KMM (D. Minn.) (together with *Handwerk*, the “Class Action Cases”).

3. All of the Class Action Cases, except *Beck*, have been reassigned to the Honorable Michael Davis.

4. Defendants Bayer Cropscience LLP and Bayer Cropscience, Inc. (collectively “Bayer”) have filed or expect to file a motion (“1404(a) Motion”) to seek transfer of the Class Action Cases to the Eastern District of Missouri pursuant to a forum-selection clause that Bayer alleges is contained in its contracts with Plaintiffs in the Class Action Cases. Plaintiffs currently expect to oppose that motion.

5. The plaintiffs in the Class Action Cases have informed Defendants that they will file a consolidated amended complaint on or before April 21, 2021.

6. Additional cases have been filed in the District of Kansas, the Eastern District of Pennsylvania, the Southern District of Illinois, and the District of Idaho (“Related Cases”). The

plaintiffs in the Class Action Cases and in each of the Related Cases filed in the four other federal districts all seek to represent essentially the same classes of farmers asserting the same or similar claims. Bayer has filed or expects to file motions to seek transfer of certain of the Related Cases to the Eastern District of Missouri.

7. Plaintiffs in the Southern District of Illinois have filed a motion before the Judicial Panel on Multidistrict Litigation (“Panel”) seeking to transfer the Class Action Cases and the Related Cases to the Southern District of Illinois. That motion is now fully briefed and awaits argument on May 27 before, and decision by, the Panel.

8. All parties have agreed that the Class Action Cases and the Related Cases should be consolidated for pretrial purposes in a single district. All plaintiffs except the plaintiffs in the Southern District of Illinois have proposed that the cases be transferred to the District of Minnesota. Defendants have proposed that the cases be transferred either to the Eastern District of Missouri or to the District of Minnesota.

9. The parties anticipate that the Class Action Cases will ultimately be consolidated and coordinated, in the interest of justice, efficiency, and conservation of judicial resources. Plaintiffs and Defendants in the Class Action Cases have cooperated to put the cases largely onto a single schedule. Based on previous stipulations, the Defendants’ responses to the complaints, and the Plaintiffs’ responses to the 1404(a) motion, are due no earlier than May 5, 2021.

10. The parties have attempted to coordinate proceedings with the plaintiffs in the Related Actions in four other federal districts. The plaintiffs in three districts (Idaho, Kansas, and Eastern Pennsylvania) have cooperated in these efforts.

11. Defendants therefore filed a motion to stay cases in the Southern District of Illinois (“ILSD Cases”). The district court declined to stay proceedings. Based on a stipulation

among the parties, the district court ordered that Defendants' responses to the complaints be filed on or before April 27, 2021.

12. Because motion to dismiss briefing will proceed in the ILSD Cases, Plaintiffs and Defendants in the Class Action Cases have agreed that briefing should proceed in this District (but not in Kansas, Idaho, or Eastern Pennsylvania). Plaintiffs and Defendants have agreed upon the following schedule for filing of an amended complaint and responses to that complaint:

- Plaintiffs will file a consolidated amended complaint ("CAC") no later than April 21, 2021. The CAC will not include any new claims not already pleaded in the Class Action Cases filed on or before April 9, 2021.
- Defendants will file their responses to the CAC no later than May 5, 2021.
- Plaintiffs' opposition to any motion to dismiss shall be filed within 21 days thereafter.
- Defendants' replies shall be filed within 21 days thereafter.

13. Counsel will meet and confer on page limitations for briefing of the anticipated Rule 12 motions and submit a proposed order to the Court.

14. After the CAC has been filed, Bayer will determine whether to file a 1404(a) motion as to the CAC. If a CAC is filed on or before April 21, 2021, then all of Bayer's pending 1404(a) motions shall be deemed withdrawn without prejudice to refiling a single motion as to the CAC.

15. Defendants do not waive any defenses, and all parties reserve all rights.

WHEREFORE, for the reasons set forth above, this joint motion respectfully requests that the Court enter an order granting the relief requested above.

Dated: April 19, 2021

/s/ Daniel E. Gustafson

Daniel E. Gustafson (MN Lic. #202241)
Michelle J. Looby (MN Lic. #0388166)
Daniel J. Nordin (MN Lic. #0392393)
Mickey L. Stevens (MN Lic. #0398549)
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgustafson@gustafsongluek.com
mlooby@gustafsongluek.com
dnordin@gustafsongluek.com
mstevens@gustafsongluek.com

Joseph W. Cotchett
Adam J. Zapala
Karin B. Swope
Elizabeth T. Castillo
James G.B. Dallal
Reid W. Gaa
COTCHETT, PITRE & MCCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Tel: (650) 697-6000
jcotchett@cpmlegal.com
azapala@cpmlegal.com kswope@cpmlegal.com
ecastillo@cpmlegal.com
jdallal@cpmlegal.com
rgaa@cpmlegal.com

Michael R. Cashman (MN Lic. #206945)
Anne T. Regan (MN Lic. #0333852)
Nathan D. Prosser (MN Lic. #0329745)
HELLMUTH & JOHNSON PLLC
8050 West 78th Street
Edina, MN 55439
Telephone: (952) 941-4005
Facsimile: (952) 941-2337
aregan@hjlawfirm.com
nprosser@hjlawfirm.com

Joseph Goldberg
Vincent J. Ward

/s/ Jaime Stilson

Michael A. Lindsay (MN Lic. #0163466)
F. Matthew Ralph (MN Lic. #0323202)
Jaime Stilson (MN Lic. #0392913)
DORSEY & WHITNEY LLP
50 South Sixth Street Suite 1500
Minneapolis, MN 55402-1498
Telephone: (612) 340-2600
lindsay.michael@dorsey.com
ralph.matthew@dorsey.com
stilson.jaime@dorsey.com

*Counsel for GROWMARK, Inc.; GROWMARK
FS, LLC*

Frank T. Davis
Josh B. Ewing
FREEDMAN BOYD HOLLANDER
GOLDBERG URIAS & WARD P.A.
20 First Plaza, Suite 700
Albuquerque, NM 87102
Telephone: (505) 305-1263
jg@fbdlaw.com
vwj@fbdlaw.com
ftd@fbdlaw.com
jbe@fbdlaw.com

Counsel for Randi Handwerk

/s/Daniel E. Gustafson

Daniel E. Gustafson (MN Lic. #202241)
Daniel C. Hedlund (MN Lic. #258337)
Michelle J. Looby (MN Lic. #0388166)
Daniel J. Nordin (MN Lic. #0392393)
Mickey L. Stevens (MN Lic. #0398549)
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgustafson@gustafsongluek.com
dhedlund@gustafsongluek.com
mlooby@gustafsongluek.com
dnordin@gustafsongluek.com
mstevens@gustafsongluek.com

Richard M. Paul III
Ashlea G. Schwarz
PAUL LLP
601 Walnut Street, Suite 300
Kansas City, MO 64106
Telephone: (816) 984-8100
Rick@PaulLLP.com
Ashlea@PaulLLP.com

Counsel for Plaintiff Dan Flaten

/s/Daniel E. Gustafson

Daniel E. Gustafson (MN Lic. #202241)
Daniel C. Hedlund (MN Lic. #258337)
Michelle J. Looby (MN Lic. #0388166)
Daniel J. Nordin (MN Lic. #0392393)
Mickey L. Stevens (MN Lic. #0398549)
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgustafson@gustafsongluek.com
dhedlund@gustafsongluek.com
mlooby@gustafsongluek.com
dnordin@gustafsongluek.com
mstevens@gustafsongluek.com

Robert J. Gralewski, Jr.
Samantha L. Greenberg
KIRBY McINERNEY LLP
600 B Street, Suite 2110
San Diego, CA 92101
Telephone: (619) 784-1442
bgralewski@kmlp.com
sgreenberg@kmlp.com

Kenneth A. Wexler
Mark R. Miller
Melinda J. Morales
WEXLER WALLACE LLP
55 W. Monroe Street

Suite 3300
Chicago, Illinois 60603
Tel: (312) 346-2222
kaw@wexlerwallace.com
mrm@wexlerwallace.com
mjm@wexlerwallace.com

Timothy D. Battin
Christopher V. Le
STRAUS & BOIES, LLP
4041 University Drive
Suite 500
Fairfax, VA 22030
Tel: (703) 764-8700
tbattin@strauss-boies.com
cle@strauss-boies.com

Counsel for Plaintiff Leon Pfaff

/s/ Michael R. Cashman

Michael R. Cashman (MN #206945)
Anne T. Regan (MN #333852)
Nathan D. Prosser (MN #0329745)
HELLMUTH & JOHNSON, PLLC
8050 West 78th Street
Edina, Minnesota 55439
Telephone: (952) 941-4005
Facsimile: (952) 941-2337
mcashman@hjlawfirm.com
aregan@hjlawfirm.com
nprosser@hjlawfirm.com

Drew R. Ball
Steve McCann
BALL & McCANN, P.C.
161 North Clark Street, Suite 1600
Chicago, Illinois 60601
Telephone: (872) 205-6556
Drew@BallMcCannLaw.com
Steve@BallMcCannLaw.com

*Counsel for Plaintiffs Ryan Bros., Inc., and
Michael J., Ryan*

/s/ Daniel E. Gustafson

Daniel E. Gustafson (MN Lic. #202241)
Michelle J. Looby (MN Lic. #0388166)
Daniel J. Nordin (MN Lic. #0392393)
Mickey L. Stevens (MN Lic. #0398549)
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgustafson@gustafsongluek.com
mlooby@gustafsongluek.com
dnordin@gustafsongluek.com
mstevens@gustafsongluek.com

Jeffrey B. Gittleman
Chad A. Carder
BARRACK, RODOS & BACINE
3300 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103
Telephone: (215) 963-0600
jgittleman@barrack.com
ccarder@barrack.com

John G. Emerson
EMERSON FIRM, PLLC
2500 Wilcrest, Suite 300
Houston, TX 77042
Telephone: (800)-551-8649
jemerson@emersonfirm.com

*Counsel for Plaintiff Eagle Lake Farms
Partnership*

/s/ Bryan L. Bleichner

Karl L. Cambronne (#14321)
Bryan L. Bleichner (#0326689)
Jeffrey D. Bores (#227699)
Christopher P. Renz (#0313415)
CHESTNUT CAMBRONNE PA
100 Washington Avenue South, Suite 1700
Minneapolis, MN 55401
Phone: 612-339-7300
kcambronne@chestnutcambronne.com

/s/ David M. Cialkowski

David M. Cialkowski (MN Lic. #306526)
Brian C. Gudmundson (MN Lic. #336695)
Alyssa J. Leary (MN Lic. #397552)
ZIMMERMAN REED LLP
1100 IDS Center, 80 S. 8th St.
Minneapolis, MN 55402
Telephone: (612) 341-0400
david.cialkowski@zimmreed.com
brian.gudmundson@zimmreed.com
alyssa.leary@zimmreed.com

Hart L. Robinovitch (MN Lic. #240515)
ZIMMERMAN REED LLP
14646 N. Kierland Blvd., Suite 145
Scottsdale, AZ 85254
Telephone: (480) 348-6415
hart.robinovitch@zimmreed.com

E. Powell Miller
Sharon S. Almonrode
William Kalas
Dennis A. Lienhardt
THE MILLER LAW FIRM PC
950 West University Drive,
Rochester, Michigan 48307
(248) 841-2200
epm@millerlawpc.com
ssa@millerlawpc.com
wk@millerlawpc.com
dal@millerlawpc.com

Counsel for Plaintiff Brad DeKrey

/s/ Garrett D. Blanchfield

Garrett D. Blanchfield (#209855)
Roberta A. Yard (#322295)
REINHARDT WENDORF &
BLANCHFIELD
332 Minnesota Street, Suite W1050
St. Paul, MN 55101
Tel: (651) 287-2100
Fax: (651) 287-2103
g.blanchfield@rwblawfirm.com

bbleichner@chestnutcambronne.com
jbores@chestnutcambronne.com
crenz@chestnutcambronne.com

Wilbert B. Markovits
Terence R. Coates
MARKOVITS, STOCK & DEMARCO, LLC
3825 Edwards Road, Ste. 650
Cincinnati, OH 45209
Telephone No. (513) 651-3700
bmarkovits@msdlegal.com
tcoates@msdlegal.com

Counsel for Plaintiff Tyler Schultz

/s/ William G. Caldes
William G. Caldes
Jeffrey J. Corrigan
Jeffrey L. Spector
Icee N. Etheridge
SPECTOR ROSEMAN & KODROFF, P.C.
2001 Market Street, Suite 3420
Philadelphia, PA 19103
Tel: (215) 496-0300
bcaldes@srkattorneys.com
jcorrigan@srkattorneys.com
jspector@srkattorneys.com
ietheridge@srkattorneys.com

Rhett A. McSweeney (#269542)
Jonathan R. Mencil (#390056)
MCSWEENEY LANGEVIN
2116 Second Avenue South
Minneapolis, MN 55404
Tel: (612) 746-4646
Fax: (612) 454-2678
ram@westrikeback.com
jon@westrikeback.com
filing@westrikeback.com

Mark K. Wasvary
MARK K. WASVARY, P.C.
2401 W. Big Beaver Rd, STE 100
Troy, MI 48084

r.yard@rwblawfirm.com

*Counsel for Plaintiffs Hapka Farms, Inc. and
Amy Hapka*

/s/ Daniel E. Gustafson
Daniel E. Gustafson (MN Lic. #202241)
Michelle J. Looby (MN Lic. #0388166)
Daniel J. Nordin (MN Lic. #0392393)
Mickey L. Stevens (MN Lic. #0398549)
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
dgustafson@gustafsongluek.com
mlooby@gustafsongluek.com
dnordin@gustafsongluek.com
mstevens@gustafsongluek.com

Brett Cebulash
Kevin Landau
Evan Rosin
TAUS, CEBULASH & LANDAU, LLP
80 Maiden Lane, Suite 1204
New York, NY 10038
Telephone: (212) 931-0704
bcebulash@tcllaw.com
klandau@tcllaw.com
erosin@tcllaw.com

Counsel for Plaintiff WUNSCH FARMS

Tel: 248-649-5667
markwasvary@hotmail.com

Brian P. Murray
Lee Albert
GLANCY PRONGAY & MURRAY LLP
230 Park Avenue, Suite. 530
New York, NY 10169
Tel: (212) 682-5340
Fax: (212) 884-0988
bmurray@glancylaw.com
lalbert@glancylaw.com

Steven A. Kanner
Jonathan M. Jagher
FREED KANNER LONDON & MILLEN LLC
2201 Waukegan Rd, Suite 130
Bannockburn, IL 60015
Tel: (224) 632-4500
skanner@fklmlaw.com
jjagher@fklmlaw.com

David P. McLafferty
MCLAFFERTY LAW FIRM, P.C.
923 Fayette Street
Conshohocken, PA 19428
Tel: (610) 940-4000 ext. 12
Fax: (610) 940-4007
dmclafferty@mclaffertylaw.com

Counsel for Plaintiffs Beeman Berry Farm, LLC

/s/Michael R. Cashman
Michael R. Cashman (MN #206945)
Anne T. Regan (MN #333852)
Nathan D. Prosser (MN #0329745)
HELLMUTH & JOHNSON, PLLC
8050 West 78th Street
Edina, Minnesota 55439
Telephone: (952) 941-4005
Facsimile: (952) 941-2337
mcashman@hjlawfirm.com
aregan@hjlawfirm.com
nprosser@hjlawfirm.com

Drew R. Ball
(To Be Admitted *Pro Hac Vice*)
Steve McCann
(To Be Admitted *Pro Hac Vice*)
BALL & McCANN, P.C.
161 North Clark Street, Suite 1600
Chicago, Illinois 60601
Telephone: (872) 205-6556
Drew@BallMcCannLaw.com
Steve@BallMcCannLaw.com

Counsel for Plaintiff Kenneth Beck